




Homeland
Security

November 1, 2005

MEMORANDUM FOR: Patricia English
Senior Procurement Executive
Federal Emergency Management Agency

FROM: Matt Jadacki 
Assistant Inspector General for Katrina Operations

SUBJECT: *Management Advisory Report on the Major Technical Assistance
Contracts (OIG-06-02)*

The purpose of this memorandum is to inform you of the results of our inquiries regarding the Federal Emergency Management Agency's contract management of the four major Technical Assistance Contracts (Bechtel National, Inc; CH2M Hill Constructors, Inc.; Fluor Enterprises, Inc.; and Shaw Environmental, Inc.) We initiated this review based on information we received in the period from September 28 through October 11, 2005. Our objective was to determine whether FEMA had implemented effective processes for managing the four Technical Assistance Contracts (TAC).

To achieve our objective, we interviewed FEMA officials. We also reviewed the terms and conditions of the Fluor contract as well as several task orders and related correspondence and performed other procedures necessary to achieve our objective.

Much of the effort being undertaken by the four TACs are based on verbal authorizations and are not currently based on executed task orders. FEMA is using pre-award cost authorizations that increase the amount of pre-award costs that the contractor can incur. The authorizations are issued on a bi-weekly basis to control the amount of effort being undertaken by the contractors.

FEMA has issued four letter contracts to the four TACs and verbal authorizations to allow the TACs to initiate work. However, at this time, the majority of the verbal authorizations have not been converted to formal task orders with definitive prices.

FEMA's procurement activities are consistent with the Federal Acquisition Regulations and can be justified under the critical need for expedited action resulting from Hurricane Katrina. However, the current process of using pre-award cost authorizations without spending limits does not provide for effective control of total costs for the effort.

Not-to-exceed ceilings can be negotiated within a brief period after issuance of the pre-award cost authorization. This time would allow the TAC to sufficiently scope the effort and develop a rough

order of magnitude estimate to negotiate a not-to-exceed ceiling price. In limited situations, the contracting officer can extend this period where a TAC is unable to develop a ceiling priced estimate because of extenuating circumstances. Binding spending ceilings limits the contractor's expenditure at specific points in time during the projected period of performance. The use of a binding spending schedule against the not-to-exceed ceiling would allow the TACs to effectively implement the task order, but limit the Government's liability in the event of a change in the Government's requirements until a definitive price is negotiated.

Recommendations

1. FEMA negotiate a not-to-exceed ceiling within a brief period (i.e., two - three weeks) after issuance of new verbal authorizations and letter task orders.
2. FEMA negotiate not-to-exceed ceilings, as soon as possible, on all current verbal authorizations and letter task orders.
3. FEMA develop a binding spending schedule against the not-to-exceed ceiling for each verbal authorization and letter task order.

The nature and brevity of this assessment precluded the use of our normal audit protocols; therefore, this review was not conducted in accordance with generally accepted government auditing standards. Had we followed such standards, other matters might have come to our attention.

We discussed the results of our review with the FEMA Branch Chief - Procurement, who concurred with our findings and recommendations.

Please advise the OIG by November 7, 2005, of the actions taken or planned to implement the recommendation, including target completion dates for any planned actions. Should you have any questions concerning this report, please call me at 202-254-5477.

cc: Secretary
Deputy Secretary
General Counsel
Chief of Staff
Executive Secretariat
Mr. Greg Rothwell, DHS Chief Procurement Officer
Under Secretary for Management